

REMARKS

Applicants would like to thank the Examiner for careful consideration of the pending application. Claims 1, 2, 4, 7-9, 11, 12, 15, and 16 are pending in the Application. Claims 1, 2, and 4 have been amended. Support for all amendments can be found in the specification as filed. No new matter has been added.

REJECTIONS UNDER 35 U.S.C. 112

Claims 1, 2, 4, 7-9, 11, 12, 15, and 16 stand rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement.

The Examiner alleges that the specification, as originally filed, fails to provide express support for the provisos "EPR or EPDM rubber based graft polymers are excepted" and "wherein said molding composition does not consist of polyphenylene ether or modified polyphenylene ether" as recited in independent Claim 1, and "non-carbon based" mineral particles as recited in Claim 2, therefore considering these limitations as new matter. Applicants respectfully disagree.

In particular, support for the proviso "EPR and EPDM rubber based graft polymers are excepted" can be found on page 9, lines 25-27 of the specification as originally filed where it is clearly stated that, "Particularly preferred are graft polymers according to the present invention not having a graft based on ethylene/propylene rubbers (EPR) or on rubbers based on ethylene/propylene and on non-conjugated diene (EPDM)." (emphasis added).

The term "non-carbon based" has been changed to "inorganic" in Claims 2 and 4. Support for this amendment can be found on page 12, lines 3 and 4 of the specification as originally filed where it is stated that the "Mineral particles that are suitable in accordance with the invention are inorganic materials..." (emphasis added).

With respect to the proviso, "molding composition does not consist of polyphenylene ether or modified polyphenylene ether" as recited in independent Claim 1, the term "consist of" has been changed to "comprise". Applicants submit that support for this proviso can be found throughout the Specification as originally filed. First and foremost, none of the compositions described in the Specification contain PPE and modified PPE, and PPE and modified PPE are not described as components in

alternative embodiments of described molding compositions. Moreover, Applicants utilize a molding composition containing PPE as a comparative example (See Comparison Example 1, Table 1, page 27) providing evidence that the objective of amended independent Claim 1 is to provide an improved molding over the prior art containing PPE or modified PPE.

Accordingly, support can be found for all of the terms and provisos provided in the current Claims 1, 2, 4, 7-9, 11, 12, 15, and 16. Withdrawal of the Examiner's rejection is respectfully requested.

Claims 1, 2, 4, 7-9, 11, 12, 15, and 16 stand rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

In particular, the Examiner alleges that it is unclear 1) if or how the genus, "(meth)acrylic C1-C8 alkyl esters" distinguishes over the subsequently recited alkyl ester species; 2) it is unclear whether the first and second monomers can be one and the same; 3) tert-butyl is indefinite as to scope and meaning; 4) "or mixtures thereof" constitutes improper Markush language and appears redundant; and 5) the term "modified" is indefinite. Applicants respectfully disagree.

Independent Claim 1 has been amended to remove terms that may be considered redundant and the terms "tert-butyl", "or mixtures thereof", and "modified" have been removed thereby attending to the Examiner's 1st, 3rd, 4th, and 5th rejections.

With regard to the Examiner's 2nd rejection, (meth)acrylic C1-C8 alkyl esters are listed components for both the first and second monomers and, accordingly, can be used as both monomers. Therefore, only one or more (meth)acrylic C1-C8 esters may be grafted. Accordingly, Applicants respectfully submit the absence of any ambiguity to the claim.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the Examiner's rejection.

REJECTIONS UNDER 35 U.S.C. 103

Claims 1, 2, 4, 7-9, 11, 12, 15 and 16 stand rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent Application No. 2002/0099136 A1 to Park et al. (hereinafter "Park").

The Examiner alleges that Park teaches the use of core-shell type rubbers such as acrylic core-shell type rubbers as impact modifiers, and it would have been obvious to employ a core-shell type rubber in lieu of the exemplified EPM graft copolymers of the reference, with a reasonable expectation of success. Applicants respectfully disagree.

It is well settled that to establish a *prima facie* case of obviousness, the USPTO must satisfy all of the following requirements. First, the prior art relied upon, coupled with the knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or to combine references. *In re Fine*, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Second, the proposed modification must have a reasonable expectation of success, as determined from the vantage point of one of ordinary skill in the art at the time the invention was made. *Amgen v. Chugai Pharmaceutical Co.* 18 USPQ 2d 1016, 1023 (Fed Cir, 1991), *cert. denied* 502 U.S. 856 (1991). Third, the prior art reference or combination of references must teach or suggest all of the limitations of the claims. *In re Wilson*, 165 USPQ 494, 496, (CCPA 1970).

First and foremost, Park fails to teach or suggest the use of a "diene rubber graft base" as recited in amended independent Claim 1. Moreover, the impact modifiers of Park are simple rubbers and not rubber modified graft polymers as recited in amended independent Claim 1, and Park fails to teach or suggest the use of rubber modified graft polymers as impact modifiers. Accordingly, Park fails to teach or suggest all of the limitations of amended independent Claim 1, and Park fails to render obvious amended independent Claim 1.

Additionally, the compositions of Park are directed to polyamide resins having fundamentally different properties than Applicants' molding compositions, and changing the impact modifier would change these properties such that one of ordinary skill in the art would not be motivated to modify the compositions of Park by using different impact

modifiers. In particular, Park is directed to polyamide resins having "excellent gasoline resistance" and "excellent flexibility", and the object of the current claimed invention is to provide a molded article having "excellent thermal stability", "high stiffness", and that is "suitable for online lacquering without the necessity for pretreatment of the molding with an electrically conductive primer system". Park fails to provide any disclosure whatsoever that would lead the skilled artisan to believe that modifying the polyamide resins of Park by using different impact modifiers would allow the modified polymer to achieve the high stiffness and thermal stability. Moreover, Park teaches against modifying the impact modifier to increase the stiffness of a molded article because the compositions of Park are meant to have excellent flexibility and increasing the stiffness of the resin would make the article unsuitable for the purposes of Park. Accordingly, Park fails to provide motivation to modify the compositions of Park, and cannot be relied upon as the basis for an obviousness type rejection under 35 U.S.C. 103(a). Reconsideration and withdrawal of the Examiner's rejection are respectfully requested.

Claims 1, 2, 4, 7-9, 11, 12, 15, and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,756,576 to Bruls et al. (hereinafter "Bruls") in combination with U.S. Patent No. 5,484,838 to Helms et al. (hereinafter "Helms").

The Examiner alleges that it would have been obvious to modify the compositions of Bruls by adding an electrically conductive carbon black as taught by Helms with a reasonable expectation of successfully arriving at the Applicants' claimed invention. Applicants respectfully disagree.

Bruls fails to teach or suggest a molding having electrically conductive carbon black, and Helms fails to cure this deficiency. In particular, there is no motivation in either reference to combine one with the other. More specifically, Helms fails to teach or suggest molded thermoplastic having polyamide or rubber modified graft polymer, and in fact, Helms teaches a completely different composition than that of Bruls. Applicants submit that neither Bruls nor Helms provide any evidence that the referenced compositions are physically combinable. Accordingly, there is no motivation to combine these references, nor is there a reasonable expectation of successfully creating a polyamide containing compound having electrically conductive particles. Reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

OBVIOUSNESS-TYPE DOUBLE PATENTING

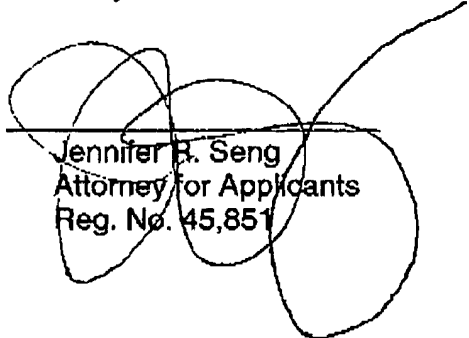
Claims 1, 2, 4, 7-9, 11, 12, 15 and 16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims of co-pending Application Nos. 10/737,321 and 10/796,525.

Applicants submit that Application Nos. 10/737,321 and 10/796,525 are pending. Allowable subject matter, notwithstanding the provisional obviousness-type double patenting rejection, has not been indicated in any of the pending applications. Where a provisional rejection under the judicially created doctrine of obviousness-type double patenting is named between two applications, MPEP § 104(I)(B) states that "if the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the Examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the provisional rejection in the other application in a double patenting rejection at the time the one application issues as a patent." Here, it is not evident which of the pending applications will become allowable first, and any action by Applicants or the Examiner with this regard is premature. Reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

In view of the above amendments and remarks, the Applicants submit that the claims presented herein are in condition for allowance. Reconsideration and allowance are respectfully requested.

Respectfully submitted,

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